

**CONTRACT RESULTING FROM REQUEST FOR PROPOSAL NUMBER 10089924-23-E,
Printing and Mailing Services for the Office of the City Treasurer**

This Contract (Contract) is entered into by and between the City of San Diego, a municipal corporation (City), and the successful proposer to Request for Proposal (RFP) # 10089924-23-E, Printing and Mailing Services for the Office of the City Treasurer (Contractor).

RECITALS

On or about 10/21/2022, City issued an RFP to prospective proposers on services to be provided to the City. The RFP and any addenda and exhibits thereto are collectively referred to as the "RFP." The RFP is attached hereto as Exhibit A.

City has determined that Contractor has the expertise, experience, and personnel necessary to provide the services.

City wishes to retain Contractor to provide printing services as further described in the Scope of Work, attached hereto as Exhibit B. (Services).

For good and valuable consideration, the sufficiency of which is acknowledged, City and Contractor agree as follows:

**ARTICLE I
CONTRACTOR SERVICES**

1.1 Scope of Work. Contractor shall provide the Services to City as described in Exhibit B which is incorporated herein by reference. Contractor will submit all required forms and information described in Exhibit A to the Purchasing Agent before providing Services.

1.2 General Contract Terms and Provisions. This Contract incorporates by reference the General Contract Terms and Provisions, attached hereto as Exhibit C.

1.3 Contract Administrator. The Office of the City Treasurer (Department) is the Contract Administrator for this Agreement. Contractor shall provide the Services under the direction of a designated representative of the Department as follows:

Tracy Cadena, Deputy Director
1200 Third Ave, Ste 100
(619) 236-6954
tcadena@sandiego.gov

**ARTICLE II
DURATION OF CONTRACT**

2.1 Term. This Contract shall be for a period of three (3) years beginning on the Effective Date. City may, in its sole discretion, extend this Contract for two (2) additional one (1) year period(s). Unless otherwise terminated, this Contract shall be effective until completion of the Scope of Service beginning on the Effective Date. The term of this Contract shall not exceed five years unless approved by the City Council by ordinance.

2.2 Effective Date. This Contract shall be effective on the date it is executed by the last Party to sign the Contract, and approved by the City Attorney in accordance with San Diego Charter Section 40.

**ARTICLE III
COMPENSATION**

3.1 Amount of Compensation. City shall pay Contractor for performance of all Services rendered in accordance with this Contract in an amount not to exceed \$3,000,000.

Contractor must immediately inform the City when the cumulative value of work done under this Agreement exceeds eighty percent (80%) of the total compensation authorized in this paragraph, or when it reasonably appears to Contractor that the cumulative value of work done under this Agreement may exceed the total compensation authorized in this paragraph within forty-five (45) days. The City is not required to pay more than the maximum amount authorized.

**ARTICLE IV
WAGE REQUIREMENTS**

4.1 Reserved.

**ARTICLE V
CONTRACT DOCUMENTS**

5.1 Contract Documents. The following documents comprise the Contract between the City and Contractor: this Contract and all exhibits thereto, the RFP; the Notice to Proceed; and the City's written acceptance of exceptions or clarifications to the RFP, if any.

5.2 Contract Interpretation. The Contract Documents completely describe the Services to be provided. Contractor will provide any Services that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result whether or not specifically called for or identified in the Contract Documents. Words or phrases which have a well-known technical or construction industry or trade meaning and are used to describe Services will be interpreted in accordance with that meaning unless a definition has been provided in the Contract Documents.

5.3 Precedence. In resolving conflicts resulting from errors or discrepancies in any of the Contract Documents, the Parties will use the order of precedence as set forth below. The 1st document has the highest priority. Inconsistent provisions in the Contract Documents that address the same subject, are consistent, and have different degrees of specificity, are not in conflict and the more specific language will control. The order of precedence from highest to lowest is as follows:

- 1st Any properly executed written amendment to the Contract
- 2nd The Contract
- 3rd The RFP and the City's written acceptance of any exceptions or clarifications to the RFP, if any
- 4th Contractor's Pricing Sheet

5.4 Counterparts. This Contract may be executed in counterparts which, when taken together, shall constitute a single signed original as though all Parties had executed the same page.

5.5 Public Agencies. Other public agencies, as defined by California Government Code section 6500, may choose to use the terms of this Contract, subject to Contractor's acceptance. The City is not liable or responsible for any obligations related to a subsequent Contract between Contractor and another public agency.

IN WITNESS WHEREOF, this Contract is executed by City and Contractor acting by and through their authorized officers.

CONTRACTOR

CITY OF SAN DIEGO
A Municipal Corporation

Electronic Output Solutions, Inc.
Proposer

BY:



2510 Commerce Way
Street Address

Print Name:

Claudia Abarca

Vista, CA 92081
City

Director, Purchasing & Contracting Department

760-599-9945
Telephone No.

Apr 14, 2023

Date Signed

terryf@eoshost.com
E-Mail

BY:



Signature of
Proposer's Authorized
Representative

Terry Fyffe
Print Name

Approved as to form this 17th day of

April, 2023.

MARA W. ELLIOTT, City Attorney

Bret A Bartolotta
BY: Bret A Bartolotta (Apr 17, 2023 09:06 PDT)

Deputy City Attorney

President & CEO
Title

11/18/2022
Date

**EXHIBIT A
PROPOSAL SUBMISSION AND REQUIREMENTS**

A. PROPOSAL SUBMISSION

1. Timely Proposal Submittal. Proposals must be submitted as described herein to the Purchasing & Contracting Department (P&C).

1.1 Reserved.

1.2 Paper Proposals. The City will accept paper proposals in lieu of eProposals. Paper proposals must be submitted in a sealed envelope to the Purchasing & Contracting Department (P&C) located at 1200 Third Avenue, Suite 200, San Diego, CA 92101. The Solicitation Number and Closing Date must be referenced in the lower left-hand corner of the outside of the envelope. Faxed proposals will not be accepted.

1.3 Proposal Due Date. Proposals must be submitted prior to the Closing Date indicated on the eBidding System. E-mailed and/or faxed proposals will not be accepted.

1.4 Pre-Proposal Conference. No pre-proposal conference will be held for RFP.

1.4.1 Reserved.

1.5 Questions and Comments. Written questions and comments must be submitted electronically via the eBidding System no later than the date specified on the eBidding System. Only written communications relative to the procurement shall be considered. The City's eBidding System is the only acceptable method for submission of questions. All questions will be answered in writing. The City will distribute questions and answers without identification of the inquirer(s) to all proposers who are on record as having received this RFP, via its eBidding System. No oral communications can be relied upon for this RFP. Addenda will be issued addressing questions or comments that are determined by the City to cause a change to any part of this RFP.

1.6 Contact with City Staff. Unless otherwise authorized herein, proposers who are considering submitting a proposal in response to this RFP, or who submit a proposal in response to this RFP, are prohibited from communicating with City staff about this RFP from the date this RFP is issued until a contract is awarded.

2. Proposal Format and Organization. Unless electronically submitted, all proposals should be securely bound and must include the following completed and executed forms and information presented in the manner indicated below:

Tab A - Submission of Information and Forms.

2.1 Completed and signed Contract Signature Page. If any addenda are issued, the latest Addendum Contract Signature Page is required.

2.2 Exceptions requested by proposer, if any. The proposer must present written factual or legal justification for any exception requested to the Scope of Work, the Contract, or the Exhibits thereto. Any exceptions to the Contract that have not been accepted

by the City in writing are deemed rejected. The City, in its sole discretion, may accept some or all of proposer's exceptions, reject proposer's exceptions, and deem the proposal non-responsive, or award the Contract without proposer's proposed exceptions. The City will not consider exceptions addressed elsewhere in the proposal.

2.3 The Contractor Standards Pledge of Compliance Form.

2.4 Equal Opportunity Contracting forms including the Work Force Report and Contractors Certification of Pending Actions.

2.5 Living Wage Ordinance Certification of Compliance.

2.6 IT Mandatory Requirements Matrix.

2.7 Reserved.

2.8 Additional Information as required in Exhibit B.

2.9 Reserved.

Tab B - Executive Summary and Responses to Specifications.

2.10 A title page.

2.11 A table of contents.

2.12 An executive summary, limited to one typewritten page, that provides a high-level description of the proposer's ability to meet the requirements of the RFP and the reasons the proposer believes itself to be best qualified to provide the identified services.

2.13 Proposer's response to the RFP.

Tab C - Cost/Price Proposal (if applicable). Proposers shall submit a cost proposal in the form and format described herein. Failure to provide cost(s) in the form and format requested may result in proposal being declared non-responsive and rejected.

3. Proposal Review. Proposers are responsible for carefully examining the RFP, the Specifications, this Contract, and all documents incorporated into the Contract by reference before submitting a proposal. If selected for award of contract, proposer shall be bound by same unless the City has accepted proposer's exceptions, if any, in writing.

4. Addenda. The City may issue addenda to this RFP as necessary. All addenda are incorporated into the Contract. The proposer is responsible for determining whether addenda were issued prior to a proposal submission. Failure to respond to or properly address addenda may result in rejection of a proposal.

5. Quantities. The estimated quantities provided by the City are not guaranteed. These quantities are listed for informational purposes only. Quantities vary depending on the demands of the City. Any variations from the estimated quantities shall not entitle the proposer to an adjustment in the unit price or any additional compensation.

6. Reserved.

7. Modifications, Withdrawals, or Mistakes. Proposer is responsible for verifying all prices and extensions before submitting a proposal.

7.1 Modification or Withdrawal of Proposal Before Proposal Opening. Prior to the Closing Date, the proposer or proposer's authorized representative may modify or withdraw the proposal by providing written notice of the proposal modification or withdrawal to the City Contact via the eBidding System. E-mail or telephonic withdrawals or modifications are not permissible.

7.2 Proposal Modification or Withdrawal of Proposal After Proposal Opening. Any proposer who seeks to modify or withdraw a proposal because of the proposer's inadvertent computational error affecting the proposal price shall notify the City Contact identified on the eBidding System no later than three working days following the Closing Date. The proposer shall provide worksheets and such other information as may be required by the City to substantiate the claim of inadvertent error. Failure to do so may bar relief and allow the City recourse from the bid surety. The burden is upon the proposer to prove the inadvertent error. If, as a result of a proposal modification, the proposer is no longer the apparent successful proposer, the City will award to the newly established apparent successful proposer. The City's decision is final.

8. Incurred Expenses. The City is not responsible for any expenses incurred by proposers in participating in this solicitation process.

9. Public Records. By submitting a proposal, the proposer acknowledges that any information submitted in response to this RFP is a public record subject to disclosure unless the City determines that a specific exemption in the California Public Records Act (CPRA) applies. If the proposer submits information clearly marked confidential or proprietary, the City may protect such information and treat it with confidentiality to the extent permitted by law. However, it will be the responsibility of the proposer to provide to the City the specific legal grounds on which the City can rely in withholding information requested under the CPRA should the City choose to withhold such information. General references to sections of the CPRA will not suffice. Rather, the proposer must provide a specific and detailed legal basis, including applicable case law, that clearly establishes the requested information is exempt from the disclosure under the CPRA. If the proposer does not provide a specific and detailed legal basis for requesting the City to withhold proposer's confidential or proprietary information at the time of proposal submittal, City will release the information as required by the CPRA and proposer will hold the City, its elected officials, officers, and employees harmless for release of this information. It will be the proposer's obligation to defend, at proposer's expense, any legal actions or challenges seeking to obtain from the City any information requested under the CPRA withheld by the City at the proposer's request. Furthermore, the proposer shall indemnify and hold harmless the City, its elected officials, officers, and employees from and against any claim or liability, and defend any action brought against the City, resulting from the City's refusal to release information requested under the CPRA which was withheld at proposer's request. Nothing in the Contract resulting from this proposal creates any obligation on the part of the City to notify the proposer or obtain the proposer's approval or consent before releasing information subject to disclosure under the CPRA.

10. Right to Audit. The City Auditor may access proposer's records as described in San Diego Charter section 39.2 to confirm contract compliance.

B. PRICING

1. Fixed Price. All prices shall be firm, fixed, fully burdened, FOB destination, and include any applicable delivery or freight charges, and any other costs required to provide the requirements as specified in this RFP. The lowest total estimated contract price of all the proposals that meet the requirements of this RFP will receive the maximum assigned points to this category as set forth in this RFP. The other price schedules will be scored based on how much higher their total estimated contract prices compare with the lowest:

$$(1 - \frac{(\text{contract price} - \text{lowest price})}{\text{lowest price}}) \times \text{maximum points} = \text{points received}$$

For example, if the lowest total estimated contract price of all proposals is \$100, that proposal would receive the maximum allowable points for the price category. If the total estimated contract price of another proposal is \$105 and the maximum allowable points is 60 points, then that proposal would receive $(1 - ((105 - 100) / 100) \times 60 = 57$ points, or 95% of the maximum points. The lowest score a proposal can receive for this category is zero points (the score cannot be a negative number). The City will perform this calculation for each Proposal.

2. Taxes and Fees. Taxes and applicable local, state, and federal regulatory fees should not be included in the price proposal. Applicable taxes and regulatory fees will be added to the net amount invoiced. The City is liable for state, city, and county sales taxes but is exempt from Federal Excise Tax and will furnish exemption certificates upon request. All or any portion of the City sales tax returned to the City will be considered in the evaluation of proposals.

3. Escalation. An escalation factor is not allowed unless called for in this RFP. If escalation is allowed, proposer must notify the City in writing in the event of a decline in market price(s) below the proposal price. At that time, the City will make an adjustment in the Contract or may elect to re-solicit.

4. Unit Price. Unless the proposer clearly indicates that the price is based on consideration of being awarded the entire lot and that an adjustment to the price was made based on receiving the entire proposal, any difference between the unit price correctly extended and the total price shown for all items shall be offered shall be resolved in favor of the unit price.

C. EVALUATION OF PROPOSALS

1. Award. The City shall evaluate each responsive proposal to determine which proposal offers the City the best value consistent with the evaluation criteria set forth herein. The proposer offering the lowest overall price will not necessarily be awarded a contract.

2. Sustainable Materials. Consistent with Council Policy 100-14, the City encourages use of readily recyclable submittal materials that contain post-consumer recycled content.

3. Evaluation Process.

3.1 Process for Award. A City-designated evaluation committee (Evaluation Committee) will evaluate and score all responsive proposals. The Evaluation Committee may require proposer to provide additional written or oral information to clarify responses. Upon completion of the evaluation process, the Evaluation Committee will recommend to the Purchasing Agent that award be made to the proposer with the highest scoring proposal.

3.2 Reserved.

3.3 Mandatory Interview/Oral Presentation. The City will require proposers to interview and/or make an oral presentation if one or more proposals score within five (5) points or less of the proposal with the highest score. Only the proposer with the highest scoring proposal and those proposers scoring within five (5) points or less of the highest scoring proposal will be asked to interview and/or make an oral presentation. Interviews and/or oral presentations will be made to the Evaluation Committee in order to clarify the proposals and to answer any questions. The interviews and/or oral presentations will be scored as part of the selection process. The City will complete all reference checks prior to any oral interview. Additionally, the Evaluation Committee may require proposer's key personnel to interview. Interviews may be by telephone and/or in person. Multiple interviews may be required. Proposers are required to complete their oral presentation and/or interviews within seven (7) workdays after the City's request. Proposers should be prepared to discuss and substantiate any of the areas of the proposal submitted, as well as proposer's qualifications to furnish the subject goods and services. Proposer is responsible for any costs incurred for the oral presentation and interview of the key personnel.

3.4 Discussions/Negotiations. The City has the right to accept the proposal that serves the best interest of the City, as submitted, without discussion or negotiation. Contractors should, therefore, not rely on having a chance to discuss, negotiate, and adjust their proposals. The City may negotiate the terms of a contract with the winning proposer based on the RFP and the proposer's proposal, or award the contract without further negotiation.

3.5 Inspection. The City reserves the right to inspect the proposer's equipment and facilities to determine if the proposer is capable of fulfilling this Contract. Inspection will include, but not limited to, survey of proposer's physical assets and financial capability. Proposer, by signing the proposal agrees to the City's right of access to physical assets and financial records for the sole purpose of determining proposer's capability to perform the Contract. Should the City conduct this inspection, the City reserves the right to disqualify a proposer who does not, in the City's judgment, exhibit the sufficient physical and financial resources to perform this Contract.

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3.6 Evaluation Criteria. The following elements represent the evaluation criteria that will be considered during the evaluation process:

	MAXIMUM EVALUATION POINTS
A. Responsiveness to the RFP.	20
<ul style="list-style-type: none"> 1. Proposer responded to all of the RFP’s specifications in a clear, concise, and organized manner and provided all required information. 2. Proposer’s understanding of the project and ability to deliver as exhibited in the Executive Summary. 3. Technical Aspects 	
B. Staffing Plan.	20
<ul style="list-style-type: none"> 1. Qualifications of personnel adequate for requirements 2. Availability/Geographical location of personnel for required tasks 3. Clearly defined Roles/Responsibilities of personnel 4. Documentation proof for Staff who have passed/cleared any security background checks 	
C. Firm's Capability to provide the services and expertise and Past Performance.	40
<ul style="list-style-type: none"> 1. Relevant experience of the Firm and subcontractors 2. Previous relationship of firm and subcontractors on similar projects 3. Ability to meet City’s required turnaround times as specified in the RFP 4. Other pertinent experience 5. Quality, Reliability and Suitability of proposed Electronic Billing services technological solution; including ease of use, ability to meet City’s requirements and system stability 6. Past/Prior Performance 7. Capacity/Capability to meet The City of San Diego needs in a timely manner 8. Reference checks 	
D. Price.	10
E. Mandatory Interview/Oral Presentation (pursuant to Section 3.3 above) at no cost to the City.	10
<ul style="list-style-type: none"> 1. Equipment 2. Software 3. Support Model 4. Real Time Operation 5. Thoroughness and Clarity of Presentation 	
SUB TOTAL MAXIMUM EVALUATION POINTS:	100
F. Participation by Small Local Business Enterprise (SLBE) or Emerging Local Business Enterprise (ELBE) Firms*	12
FINAL MAXIMUM EVALUATION POINTS INCLUDING SLBE/ELBE:	112

*The City shall apply a maximum of an additional 12 percentage points to the proposer's final score for SLBE OR ELBE participation. Refer to Equal Opportunity Contracting Form, Section V.

D. ANNOUNCEMENT OF AWARD

1. Award of Contract. The City will inform all proposers of its intent to award a Contract in writing.

2. Obtaining Proposal Results. No solicitation results can be obtained until the City announces the proposal or proposals best meeting the City's requirements. Proposal results may be obtained by: (1) e-mailing a request to the City Contact identified on the eBidding System or (2) visiting the P&C eBidding System to review the proposal results. To ensure an accurate response, requests should reference the Solicitation Number. Proposal results will not be released over the phone.

3. Multiple Awards. City may award more than one contract by awarding separate items or groups of items to various proposers. Awards will be made for items, or combinations of items, which result in the lowest aggregate price and/or best meet the City's requirements. The additional administrative costs associated with awarding more than one Contract will be considered in the determination.

E. PROTESTS. The City's protest procedures are codified in Chapter 2, Article 2, Division 30 of the San Diego Municipal Code (SDMC). These procedures provide unsuccessful proposers with the opportunity to challenge the City's determination on legal and factual grounds. The City will not consider or otherwise act upon an untimely protest.

F. SUBMITTALS REQUIRED UPON NOTICE TO PROCEED. The successful proposer is required to submit the following documents to P&C **within ten (10) business days** from the date on the Notice to Proceed letter:

1. Insurance Documents. Evidence of all required insurance, including all required endorsements, as specified in Article VII of the General Contract Terms and Provisions.

2. Taxpayer Identification Number. Internal Revenue Service (IRS) regulations require the City to have the correct name, address, and Taxpayer Identification Number (TIN) or Social Security Number (SSN) on file for businesses or persons who provide goods or services to the City. This information is necessary to complete Form 1099 at the end of each tax year. To comply with IRS regulations, the City requires each Contractor to provide a Form W-9 prior to the award of a Contract.

3. Business Tax Certificate. Unless the City Treasurer determines a business is exempt, all businesses that contract with the City must have a current business tax certificate.

4. Reserved.

5. Reserved.

6. COVID Certification Form.

The City may find the proposer to be non-responsive and award the Contract to the next highest scoring responsible and responsive proposer if the apparent successful proposer fails to timely provide the required information or documents.

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**EXHIBIT A
SCOPE OF WORK**

A. OVERVIEW

The City of San Diego (City) is the 2nd largest incorporated City in the State of California, and the 8th largest City in the United States. The City occupies 325 square miles of land and is located in the southwest corner of the United States. The City has over 1.4 million residents, is comprised of nine distinct council districts, and has a ‘strong mayor’ form of government. The City had approximately 11,545 positions budgeted in Fiscal Year 2019. These positions are disbursed across almost seventy (70) distinct business areas comprised of departments, agencies, elected official offices, boards, and commissions. Most of these positions are in business areas that are under the responsibility of the Mayor and managed by the Executive Management Team. The remainder are located in other business areas that are headed up by other elected officials or City Agencies. At various times throughout the fiscal year, the regular City workforce may be augmented by as many as two thousand (2,000) additional seasonal employees. The City operates on a July through June fiscal year.

The Office of the City Treasurer is responsible for the receipt, custody, and reconciliation of all City revenue; banking and cash management; tax administration; parking administration and meter operations; and collection of citywide delinquent accounts. The City Treasurer’s Divisions include Business Operations, Investments, Revenue Collections, Financial Operations and Treasury Systems.

The Office of the City Treasurer is requesting proposals from qualified firms to provide printing and mailing services of invoices, notices, certificates and other correspondence. These include correspondence related (but not limited) to: Business Tax (BT), Rental Unit Business Tax (RUBT) and General Accounts Receivable Invoicing. The notices are mailed through the United States Postal Service (USPS). In addition, certain BT and RUBT correspondence is available for viewing via an electronic billing website. Proposer shall provide additional printing/ mailing services for the Office of the City Treasurer, as needed, throughout the duration of the contract.

As part of the Agreement, Proposer shall provide dedicated printing, billing (hard copy and paperless), mail processing and for the Term specified in the contract.

B. CORE REQUIREMENTS AND DELIVERABLES

With respect to all Services provided to City, Proposer shall comply with the following specifications:

Printing Services

Proposer shall provide printing and mailing services that include currently approximately 450,000 invoices, bills, Certificates, notices and special requests printed annually. All services to be provided by the Proposer are subject to change at the sole discretion of the Office of the City Treasurer. Current volumes are provided for reference purposes only and do not imply any contractual minimums.

1. Proposer shall print and mail all correspondence within the turnaround times in the following matrix:

Correspondence Type	Mandatory Proposer Turnaround Time
Business and Rental Tax	Within forty-eight (48) hours of file transmission from the City.

General Accounts Receivable Invoices	Same business day of file transmission from the City.
Correspondence Type	Mandatory Proposer Turnaround Time
Special Print Requests	Within twenty-four (24) hours after proofs are confirmed.
Other Correspondence	As defined by Office of City Treasurer.

2. Proposer shall provide a confirmation email of file processing for each correspondence type on a daily basis. Proposer shall include file name, number of items processed and correspondence name, at a minimum, as part of the confirmation. Confirmation emails should be sent to separate distribution groups as defined by the Office of the City Treasurer.
3. Proposer shall notify the Contract Administrator via email on same business day in the event an established turnaround time will not be met.
4. Proposer shall provide a Secure File Transfer Protocol (SFTP) server for data transmission transfers between the City and Proposer. Proposer shall explain any additional file or data transmission methods that may be available to the City.
5. Proposer shall provide image proofing for all correspondence and subsequent modifications to the correspondence. Proposer shall explain any costs associated with template setup and modifications.
6. Proposer shall work with the City on each bill design noting that each bill could have its own file format and different file types. This could include calculated fields based on multiple fields passed in the file.
7. Proposer shall format and complete print images according to City specifications (accumulating, folding, selective inserting and final inserting into #10 window). City shall have the ability to modify all specifications as needed. Proposer should also provide an optional approval process to enable the City to review correspondence before presenting to the customer.
8. Proposer shall demonstrate possession of all infrastructure required to meet the requirements of the Department under all circumstances, regardless of volume of work performed for other entities.
9. Proposer shall explain in detail its procedures that will ensure all bills are printed and delivered to a major USPS in San Diego County by the established turnaround times set forth in the RFP. Proposer must have controls in place to ensure the USPS received the correct number of pieces to be mailed.
10. Proposer shall explain in detail its quality control processes for each stage of the printing, insertion and mailing process.
11. Proposer shall print and mail all correspondence in accordance with established turnaround times regardless of the volume or record count in a file. Proposer shall not impose any minimum counts.
12. Proposer shall explain in detail what system is in place to provide reports to the Department on a daily basis on status of work which shall include documents received by business division, notice type, documents mailed, and documents not mailed.
13. Proposer must use Intelligent Mail Barcode (IMB) to print the USPS barcode and optical character recognition (OCR) for scanning of the tear off payment coupon by a remittance processing system.

Proposer shall print forms with OCR that can be read or scanned by the City's Public Utilities' remittance processing system.

14. Proposer must prepare postal information for hand off to USPS. Proposer shall explain in detail its procedures to subject all mailings to USPS National Change of Address (NCOA) address validation and corrected address prior to mailing. Proposer shall transmit corrections to addresses from the NCOA back to Department. Proposer shall provide a daily report to the Department for all addresses that have been corrected; Proposer shall provide these reports/files for each printing batch or as defined by the City.
15. Proposer shall explain in detail its procedures to ensure acceptance of preprinted inserts provided by the City. Leftover inserts will be returned to the City after completion or recycled by Proposer upon request. Proposer shall store all paper and forms in a controlled temperature and humidity environment.
16. Proposer shall explain in detail its procedures to use the quality and weight of paper in the printing of forms specified by the City.
17. In some instances, Notices and Forms may not meet USPS requirement for postage to be covered by the City's prepaid postage account. In such instance, Proposer agrees to pay upfront USPS full-pay postage costs. Costs for full-pay postage will be reimbursed by the City within 30 days of bill receipt.
18. Proposer shall provide a determination of how postage is calculated in a monthly report.
19. Proposer shall describe its backup plan to meet its obligations to the City in the event its primary facilities and infrastructure are interrupted, damaged or otherwise not functioning. Include the time frame to shift to backup plans.
20. Proposer shall protect the confidentiality and sensitivity of all information (customer information, addresses, billing information, etc) exchanged by the City as part of the services provided under this agreement. Proposer shall acknowledge and adhere to the City of San Diego regulations including, but not limited to, Administrative Regulation 90.64, "Protection of Sensitive Information and Data."

Electronic Billing Services

Provide electronic billing services as needed (currently approximately 34,000 per year) through a customizable secure portal website; through this site, taxpayers must have ability to view their bills and be redirected to City's current 3rd party payment website for electronic payment processing.

Proposer shall also provide the City with the following electronic billing services on an as-needed basis by the City in accordance with the following terms and conditions agreed to by the Parties.

1. Bills - Proposer shall provide electronic billing services to the City through Proposer's secure portal website (Site). Through this Site, taxpayers who sign up for electronic billing service (Customers) will have the ability to view their bills and be redirected to the City's current third-party bill payment website in order to provide electronic payment. There will be no data passed between the two websites. Proposer shall not include any payment functionality on their website for the City with this Agreement.

2. Email notification shall be sent to registered users each time a new statement is available to viewed in Site. Issued email notification should also have the ability to attach a PDF version of the billing statement available for viewing.
3. Bill Design – Proposer shall host billing statements on the Site in a format approved by the City.
4. Electronic Billing Website Artwork and Site Text – The Site must be customized to add at least five graphics with varying sizes. These graphics shall have underlying URL's to redirect customers to other sites including bill payment site, the City's home page, and other websites as deemed appropriate by the City.

The Site shall include links that must be populated with text including, but not limited to:

- About us
- Privacy & Security
- Terms & Conditions
- FAQ
- Help Contact Us.

The City will provide Proposer with text to populate these links on the Site and Proposer agrees to only use such text provided by the City. Proposer shall not go live with the Site until the City provides such text to populate these links and the City provides written approval to Proposer to go live. In addition, the City shall approve all changes on the website prior to publishing through the duration of the contract.

5. Files – Proposer shall use the current billing file format generated by the City to populate the Site. An additional Personal Identification Number (PIN) file will be provided by the City to Proposer. The PIN file will contain the Customer's "Account Number" and a "PIN" generated by the City. This information will be used by the Customer to register for the Electronic Billing Service. Proposer should have the ability to combine the Account Number and PIN to create the customer's "Web Account Number". This "Web Account Number" will be added to City billing statements which use this feature.
6. Site Search Functionality – Once Customers have logged onto the Site, Proposer shall provide search options in order to find a specific billing statement or type of billing statement. Proposer shall allow Customers the capability to search by their "Web Account Number" as well as their regular "Account Number". Proposer shall ensure that the Site includes various search options such as "contains" or "starts with" for ease of use. Proposer shall also provide capability for this search functionality to be used by the City's Administration and Customer Service Representative (CSR) users.
7. SMS Text Message Notifications – Proposer will provide SMS capabilities (limited to 160 characters per notification) to Customers as part of the Site's functionality. Proposer shall provide a number of variables available for text message notifications (Notifications) as set forth in the various configurations below. Templates to generate Notifications shall be configured by Proposer. The City will test and approve all Notification template configurations prior to Proposer sending Customers messages using those configurations. Proposer shall provide the following Notification configurations:
 - Configuration 1 (Event Notification): A Notification to Customers triggered by an event such as when the tax bill is ready to be viewed and/or when the tax bill is ready to be paid.
 - Configuration 2 (Reminder Notification): A Reminder Notification with pre-built messages to Customers. In order for the City to utilize this configuration, the City shall submit a comma-

separated values (CSV) file that has the Customer's name and mobile telephone number, and the types of fields that the City would like to include in the Notification such as Due Date, Amount Due, 30 Days Late, 60 Days Late, etc.

- Configuration 3 (Reminder Notification Requesting Customer Response): A Reminder Notification requesting a Customer response of some type. In order for the City to utilize this configuration, the City shall submit a CSV file with the Customer's name and mobile telephone number along with any data field such as Due Date, Bill Number, etc. for which the City would like to notify the Customer. The Notification shall allow various response options such as "Reply P if you made payment", "Reply E to notify of incorrect amount", or "Reply C to be contacted by phone".
 - Configuration 4 (Custom Notification): Customized Notification to the Customer. In order for the City to utilize this configuration, the City shall submit a CSV file with the Customer's name, mobile number and the customized message.
8. Inserts – Proposer shall include inserts with the electronic billing statements on the Site. Proposer shall present the inserts on the Site above the associated electronic billing statement.
 9. Data Retention – Each and every electronic document created by Proposer shall be retained by Proposer and made available on the site for a period of at least three (3) years.
 10. Administration & Customer Service Representative (CSR) users – Proposer acknowledges and understands that there are two different roles for City employees using the Site which are as follows: (1) Administration user; and (2) CSR user. Proposer shall ensure that Administration users are provided with the following functionality:
 - Ability to Create, Delete, Re-enroll and Update Accounts
 - Ability to combine billing statements under one Account

Proposer shall ensure that CSR users can only view, email, and print documents (no limit) from the Site. CSR users will be able to identify accounts that are enrolled to receive Electronic Billing. The City shall be provided with up to 25 concurrent user accounts (any combination of both types of users at the City's discretion).

11. User acceptance testing and sign-off – The City will perform end-to-end user acceptance testing of the Site (which includes file creation to customer bill review). Once testing has concluded to the City's satisfaction, the City will provide a written sign-off to Proposer to go live with the Site. The City's testing of the Site will not result in any charges to the City.
12. Additional Electronic Billing Statements – Proposer shall offer the same type of Electronic Billing Services outlined in this Agreement for additional billing statement types as requested by the City.
13. Proposer shall notify the City in advance of any scheduled outages of the website in writing to the Contract Administrator at least five (5) business days ahead of the scheduled outage. These communications shall, at a minimum, include date and times of outage, estimated duration of outage and description of services impacted. Proposer shall also provide an announcement on the website at least 48 hours in advance of the scheduled outage to inform customers.

C. QUALIFICATIONS AND EXPERIENCE

1. Proposer must demonstrate they are qualified to perform the work as specified in this RFP. Proposers must have successfully participated in at least three (3) similar scopes of work within the past seven (7) years. Proposers must outline their experience and qualifications in performing work directly

related to the required scope of services. Previous experience with public agencies and/or performance within the San Diego region is highly desirable.

2. Previous experience in industrial/commercial settings and services performed for similar contracts of scope and size as specified in this RFP and Proposer's track record of performance will be an important consideration.
3. Proposer shall provide a company organization chart and staffing profile including years of tenure for staff. The staffing profile shall include the leadership of the project team including the Project Manager.
4. Proposer shall provide names and resumes or equivalent information for proposed assigned key personnel assigned and dedicated to the City's account.
5. Proposer shall provide a dedicated Project Manager who has a minimum of three (3) years prior experience in contracts similar in size and scope as specified in this RFP. Previous experience with public agencies is desirable.
6. Dedicated Account Representative: Proposer shall identify a single point of contact for all contract management activities.
7. Dedicated Project Manager and/or the Account Representative shall not be changed without the prior written approval of the City.
8. Proposer shall clearly define what responsibilities the dedicated Project Manager, project team member(s) and key personnel will be charged with relative to this Contract.

D. REFERENCES

Proposer must demonstrate they are properly equipped to perform the work as specified in this RFP. The City reserves the right to contact references not provided by the Proposer. References shall be provided in accordance with the attached form.

Proposer is required to provide a minimum of three (3) references to demonstrate successful performance for work of similar size and scope as specified in this contract during the past seven (7) years. References shall be submitted on the Proposer Standards Pledge of Compliance form attached to this RFP. Proposer cannot provide a current City of San Diego staff member as a reference. If a City staff member is provided, the Proposer will be required to provide an additional reference.

Proposer is also required to state all subcontractors to be used in the performance of the proposed contract, and what portion of work will be assigned to each subcontractor on the form attached to this RFP.

The City shall rely on references as part of the evaluation process. The City reserves the right to take any or all of the following actions: reject a proposal based on an unsatisfactory reference(s), to contact any person or persons associated with the reference, to request additional references, to contact organizations known to have used in the past or currently using the services supplied by the Proposer or the Proposer's subcontractors (as listed in Proposer Standards Pledge of Compliance form attached to this RFP), and to contact independent consulting firms for additional information about the Proposer or the Proposer's Subcontractors.

E. REPORT REQUIREMENTS

Proposer shall provide reports as requested detailing progress and outstanding issues. Reports shall be submitted to the City's Contract Administrator or designee electronically via email attachment in Microsoft Word or Excel format. In some cases, as designated by the City's Contract Administrator or designee, report submittal in PDF format will be acceptable.

F. PAYMENT WITHHELD

The City may withhold payment to such extent as may be necessary to protect the City from loss due to:

1. Work required in the specifications, which is defective, incomplete, or not performed.
2. Claims filed against the City for damage caused by the Proposer's acts or omissions, or reasonable evidence indicating probable filing of such claims.
3. Failure of the Proposer to make payments properly to subcontractors for materials or labor.
4. Billing dispute.

The Proposer shall continue providing services to the City as requested if payment is withheld for any of the reasons listed above.

G. INVOICING AND PAYMENT

On a monthly basis, Proposer shall provide invoices for services via e-mail to the Contract Administrator as defined in Article I, Proposer Services, attached. The City shall pay the Proposer for services rendered in arrears. The Proposer must provide separate invoices for (1) Business Tax, (2) Rental Unit Business Tax, (3) General Invoicing and (4) other correspondence.

Invoices shall contain, at a minimum:

- a. Contract and Purchase Order number;
- b. Itemization of all costs including quantities ordered and delivery order numbers (if any);
- c. Discounts offered to the City of San Diego under the terms of the Contract;
- d. Unique invoice number.

H. IMPLEMENTATION PLAN

1. Project Manager: The Proposer must identify a single dedicated Project Manager to oversee delivery of implementation services.
2. Project Plan: The proposal must contain a comprehensive and detailed description of all steps related to implementation. This will include, but is not limited to: key milestones, operational steps, technical approach and timeline of how the Proposer intends to provide the work plan for the specified requirements noted in this Section of the RFP.

I. IT MANDATORY REQUIREMENTS MATRIX (EXHIBIT D)

The City has provided potential technical requirements for the proposed solution as shown in the IT Mandatory Requirements matrix. Proposers are required to indicate whether their solution meets City requirements, to what extent it meets City requirements, and to what extent modifications or customizations are required.

All requirements identified with a “Fully Compliant” response shall be assumed to be available in an 'Out-of-the-Box' format at the time of RFP submittal (i.e. beyond release candidate and beta testing). Proposer must describe how the proposed solution is fully compliant in the “Comments” section.

All requirements identified with a “Partially Compliant” response shall require further explanation from the Proposer in the “Comments” section. If there are costs associated with making the requirement fully compliant, please provide the associated details and costs. If the Proposer fails to provide an accompanying elaboration for the “Partially Compliant” status, the City shall consider the requirement to be “Not Compliant”.

All requirements identified with a “Not Compliant” response shall be assumed to mean that the Proposer cannot or will not be able to meet this requirement without further customization or development of their product.

All requirements identified with a “N/A” response shall also require further explanation from the Proposer in the “Comments” section.

J. ADDITIONAL INSURANCE REQUIREMENTS

Cyber Liability Insurance, with limits not less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Vendor in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

K. CONTRACT ADMINISTRATION

The Contract Administrator is the Office of The City Treasurer. The Contract Administrator will provide daily oversight of this Contract to ensure compliance to the scope of work and/or performance to Contract specifications. The Contract Administrator, or designee, is also responsible for oversight of all invoice payments and billing questions for purchase orders issued under this Contract.

The Purchasing Agent shall be responsible for all contractual matters and is the only individual authorized to make changes of any kind to the Contract.

L. PRICING SCHEDULE

The estimated monthly quantities provided by the City are not guaranteed. The quantities may vary depending on the demands of the City. Any variations of the estimated quantities shall not entitle the Contractor to an adjustment in the unit prices or to any additional compensation.

Contractor shall complete the pricing page in its entirety to be considered responsive to this bid. Pricing shall be inclusive of all costs and in accordance with Exhibit B, Scope of Work as described herein.

City of San Diego Applications

Application Name	Printng Specifications	Envelope Specifications	Frequency	Min per run	Max per run
Business Tax Late Notice	1 sheet 24lb, microperf prints 4/4	Outer: Single Window #10 Envelope, prints 4/1. Reply: White Single Window #9 Envelope	WEEKLY	10	3,000
Business Tax NOV	1 sheet 24lb, microperf prints 4/4	Outer: Single Window #10 Envelope, prints 4/1. Reply: Color Single Window #9 Envelope	WEEKLY	1	500
Business Tax Renewals	1 sheet 24lb, microperf prints 4/4	Outer: Single Window #10 Envelope, prints 4/1. Reply: White Single Window #9 Envelope	WEEKLY	3	12,000
Business Tax statement	1 sheet 24lb, microperf prints 4/4	Outer: Single Window #10 Envelope, prints 4/1. Reply: White Single Window #9 Envelope	WEEKLY	10	2,200
Certificate of Payment	1 sheet 28lb microperf prints 4/4	Outer: Double Window #10 with Security Tint and CSD Indicia 1/0.	Bi-Weekly	500	1,500
DSD Letters	variable number sheets print 1/1	#10 double window permit #3198	MONTHLY	1,600	2,500
FICA Blue	1 sheet 24lb, microperf prints 4/4	Outer: Double Window #10 with Security Tint and CSD Indicia 1/0. Reply: Color Single Window #9 Envelope	DAILY	10	300
FICA Red	1 sheet 24lb, microperf prints 4/4	Outer: Double Window #10 with Security Tint and CSD Indicia 1/0. Reply: Color Single Window #9 Envelope	DAILY	1	300
Missing Information	1 sheet 24lb, microperf prints 4/4	Outer: Double Window #10 with Security Tint and CSD Indicia 1/0. Reply: White Single Window #9 Envelope	WEEKLY	1	300
Notice of Cancellation	1 sheet 24lb, microperf prints 4/4	Outer: Double Window #10 with Security Tint and CSD Indicia 1/0. Reply: White Single Window #9 Envelope	WEEKLY	25	4,000
OSB Letters	1 sheet 24lb prints 4/1	Outer: Single Window #10 with CSD reply printed 1/0. Reply: Color #9 Prints 1/0	MONTHLY	300	1,200
Police Billing Statement	1 sheet 24lb, microperf prints 4/4	Outer: Double Window #10 with Security Tint and CSD Indicia 1/0. Reply: Color Single Window #9 Envelope	WEEKLY	1	100
Police Late Notice	3 sheets 24lb, microperf prints 4/4	Outer: Double Window #10 with Security Tint and CSD Indicia 1/0. Reply: Color Single Window #9 Envelope	WEEKLY	1	60
Police Permit	1 sheet special 28lb silk prints 1/1	Outer: Single Window #10 with CSD reply printed 1/0.	WEEKLY	5	285
Police Permit Renewal	3 sheets 24lb, microperf prints 4/4	Outer: Single Window #10 with CSD reply printed 1/0.	WEEKLY	90	300
Rental Tax Late Notice	2 sheets 24lb, microperf prints 4/4	Outer: Single Window #10 Envelope, prints 4/1. Reply: Color Single Window #9 Envelope	WEEKLY	1	500
Rental Tax Statement	2 sheets 24lb, microperf prints 4/4	Outer: Single Window #10 Envelope, prints 4/1. Reply: Color Single Window #9 Envelope	WEEKLY	100	10,000

USPS Postal 1st Class presort (projected future rates) YE 2022 presort rate = \$0.515

Processing Year	Starting Rate	Ending Rate
2023	0.531	0.550
2024	0.569	0.589
2025	0.609	0.631
2026	0.653	0.676
2027	0.699	0.724

USPS Market Mail presort(projected future rates) YE 2022 presort rate = \$0.349

Processing Year	Starting Rates	Ending Rates
2023	0.36	0.373
2024	0.386	0.399
2025	0.413	0.428
2026	0.443	0.458
2027	0.474	0.491

Projected Postal cost by (blended estimates between full rate & presort rate)

Processing Year	Estimated Mailed Volume	Estimated Yearly Cost
2023	350,000	\$189,102.38
2024	350,000	\$202,571.19
2025	350,000	\$216,999.32
2026	350,000	\$232,455.10
2027	350,000	\$249,011.72

PLEASE NOTE: EOS DOES NOT MAKE A PROFIT ON POSTAGE AND THIS DIRECT COST IS GOING TO THE USPS

3 Year Postage Total: \$608,672.89
5 Year Postage Total: \$1,090,139.71

SECTION A – PRINTING

Item No.	Est. Monthly Qty.	Unit of Measure	Description	Unit Cost	Extended (Est, Monthly X Unit Cost)	Annual Cost
1.	8750	EA	Business Tax Certificates: (8.5 x11 perfed 24# laser stock 12 color print, #10 double windowed envelope)	\$ 0.25	\$ 2187.50	\$ 26250.00
2.	1700	EA	Departmental Invoicing: (8.5 x11 perfed 24# laser stock Duplex laser print, #10 double windowed envelope. #9 windowed envelope)	\$ 0.28	\$ 476.00	\$ 5712.00
3.	9170	EA	Business Tax Renewal: (8.5 x11 perfed 24# laser stock color print, #10 double windowed envelope, #9 windowed envelope)	\$ 0.25	\$ 2292.50	\$ 27510.00
4.	3170	EA	Business Tax Late Notice: (8.5 x11 perfed 24# laser stock color print, #10 double windowed envelope, #9 windowed envelope)	\$ 0.25	\$ 792.50	\$ 9510.00
5.	2600	EA	Notice of Cancellation Business Tax: (8.5x11 perfed 24# laser stock color print, #10 double window envelope #9, windowed envelope)	\$ 0.25	\$ 650.00	\$ 7800.00
6.	700	EA	Business Tax Notice of Violation: (8.5x11 perfed 24# 2 color notice, #10 double windowed envelope, #9 windowed envelope, application and brochure)	\$ 0.28	\$ 196.00	\$ 2352.00
7.	450	EA	Business Tax Missing Information Notice:(8.5x11 perfed 24# laser stock 12 color print, #10 double windowed envelope, #9 windowed envelope)	\$ 0.25	\$ 112.50	\$ 1350.00
8.	As needed	EA	Miscellaneous/Additional correspondence- (8.5 x11 perfed 24# laser stock Duplex laser print, #10 double windowed envelope. #9 windowed envelope) – SINGLE PAGE	\$ 0.22	\$ 0.00	\$ 0.00
9.	As needed	EA	Miscellaneous/Additional correspondence- (8.5 x11 perfed 24# laser stock Duplex laser print, #10 double windowed envelope. #9 windowed envelope) – PER ADDITIONAL PAGE	\$ 0.07	\$ 0.00	\$ 0.00
10.	As needed	EA	Miscellaneous/Additional correspondence- (8.5 x11 perfed 24# laser stock Duplex laser print, #10 double windowed envelope. NO INSERTS)	\$ 0.22	\$ 0.00	\$ 0.00

SECTION B – ADDITIONAL SERVICES

11.	Additional Marketing Inserts	Unit Cost	\$ 0.003 each insert
12.	Programming changes to existing applications	Hourly Rate	\$ 95.00
13.	First Class Postage (10z)	Unit Cost	2023 Full Pay \$ 0.63 * 2023 Presort 0.54 *
14.	Standard “A” Presort Postage (up 3.3oz)	Unit Cost	\$ 0.37

SECTION C – E BILLING PORTAL

* These USPS rates are purely an estimate based on past postal increases.
 * The City has postage expense that falls into two primary rate categories, full pay and presort.
 * The City prepays the USPS directly, pays EOS for full pay peices after the fact.

15.	One-time Setup of Portal	Unit Cost	\$ No Charge
16.	Monthly Hosting (per block of 500,000 documents annually)	Monthly Cost Includes Enterprise Encryption License & unlimited documents	\$ 600.00
17.	Email notifications (per user)	User	\$ No Charge
18.	Mobile Reminders (per reminder message)	Message	\$ 0.15
19.	Cost to view documents online	User This is actually only charged once per document loaded on-line	\$ 0.13
20.	Cost to view documents online and receive paper invoice	User	\$ No Charge
21.	Monthly City user access to portal	User	\$ 350.00

Total Cost

Estimated Annual Bid Total for Sections (A-C)	\$ Between \$315,000 to \$329,000 This estimate include postal expense being paid directly to the USPS.
Estimated Total Contract Value (Five Years)	\$ Between \$1,690,000 to \$1,790,000 This estimate include postal expense being paid directly to the USPS.

EXHIBIT C



THE CITY OF SAN DIEGO
GENERAL CONTRACT TERMS AND PROVISIONS
APPLICABLE TO GOODS, SERVICES, AND CONSULTANT CONTRACTS

**ARTICLE I
SCOPE AND TERM OF CONTRACT**

1.1 Scope of Contract. The scope of contract between the City and a provider of goods and/or services (Contractor) is described in the Contract Documents. The Contract Documents are comprised of the Request for Proposal, Invitation to Bid, or other solicitation document (Solicitation); the successful bid or proposal; the letter awarding the contract to Contractor; the City's written acceptance of exceptions or clarifications to the Solicitation, if any; and these General Contract Terms and Provisions.

1.2 Effective Date. A contract between the City and Contractor (Contract) is effective on the last date that the contract is signed by the parties and approved by the City Attorney in accordance with Charter section 40. Unless otherwise terminated, this Contract is effective until it is completed or as otherwise agreed upon in writing by the parties, whichever is the earliest. A Contract term cannot exceed five (5) years unless approved by the City Council by ordinance.

1.3 Contract Extension. The City may, in its sole discretion, unilaterally exercise an option to extend the Contract as described in the Contract Documents. In addition, the City may, in its sole discretion, unilaterally extend the Contract on a month-to-month basis following contract expiration if authorized under Charter section 99 and the Contract Documents. Contractor shall not increase its pricing in excess of the percentage increase described in the Contract.

**ARTICLE II
CONTRACT ADMINISTRATOR**

2.1 Contract Administrator. The Purchasing Agent or designee is the Contract Administrator for purposes of this Contract, and has the responsibilities described in this Contract, in the San Diego Charter, and in Chapter 2, Article 2, Divisions 5, 30, and 32.

2.1.1 Contractor Performance Evaluations. The Contract Administrator will evaluate Contractor's performance as often as the Contract Administrator deems necessary throughout the term of the contract. This evaluation will be based on criteria including the quality of goods or services, the timeliness of performance, and adherence to applicable laws, including prevailing wage and living wage. City will provide Contractors who receive an unsatisfactory rating with a copy of the evaluation and an opportunity to respond. City may consider final evaluations, including Contractor's response, in evaluating future proposals and bids for contract award.

2.2 Notices. Unless otherwise specified, in all cases where written notice is required under this Contract, service shall be deemed sufficient if the notice is personally delivered or deposited in the United States mail, with first class postage paid, attention to the Purchasing Agent. Proper notice is effective on the date of personal delivery or five (5) days after deposit in a United States postal mailbox unless provided otherwise in the Contract. Notices to the City shall be sent to:

Purchasing Agent
City of San Diego, Purchasing and Contracting Division
1200 3rd Avenue, Suite 200
San Diego, CA 92101-4195

ARTICLE III COMPENSATION

3.1 Manner of Payment. Contractor will be paid monthly, in arrears, for goods and/or services provided in accordance with the terms and provisions specified in the Contract.

3.2 Invoices.

3.2.1 Invoice Detail. Contractor's invoice must be on Contractor's stationary with Contractor's name, address, and remittance address if different. Contractor's invoice must have a date, an invoice number, a purchase order number, a description of the goods or services provided, and an amount due.

3.2.2 Service Contracts. Contractor must submit invoices for services to City by the 10th of the month following the month in which Contractor provided services. Invoices must include the address of the location where services were performed and the dates in which services were provided.

3.2.3 Goods Contracts. Contractor must submit invoices for goods to City within seven days of the shipment. Invoices must describe the goods provided.

3.2.4 Parts Contracts. Contractor must submit invoices for parts to City within seven calendar (7) days of the date the parts are shipped. Invoices must include the manufacturer of the part, manufacturer's published list price, percentage discount applied in accordance with Pricing Page(s), the net price to City, and an item description, quantity, and extension.

3.2.5 Extraordinary Work. City will not pay Contractor for extraordinary work unless Contractor receives prior written authorization from the Contract Administrator. Failure to do so will result in payment being withheld for services. If approved, Contractor will include an invoice that describes the work performed and the location where the work was performed, and a copy of the Contract Administrator's written authorization.

3.2.6 Reporting Requirements. Contractor must submit the following reports using the City's web-based contract compliance portal. Incomplete and/or delinquent reports may cause payment delays, non-payment of invoice, or both. For questions, please view the City's online tutorials on how to utilize the City's web-based contract compliance portal.

3.2.6.1 Monthly Employment Utilization Reports. Contractor and Contractor's subcontractors and suppliers must submit Monthly Employment Utilization Reports by the fifth (5th) day of the subsequent month.

3.2.6.2 Monthly Invoicing and Payments. Contractor and Contractor's subcontractors and suppliers must submit Monthly Invoicing and Payment Reports by the fifth (5th) day of the subsequent month.

3.3 Annual Appropriation of Funds. Contractor acknowledges that the Contract term may extend over multiple City fiscal years, and that work and compensation under this Contract is contingent on the City Council appropriating funding for and authorizing such work and compensation for those fiscal years. This Contract may be terminated at the end of the fiscal year for which sufficient funding is not appropriated and authorized. City is not obligated to pay Contractor for any amounts not duly appropriated and authorized by City Council.

3.4 Price Adjustments. Based on Contractor's written request and justification, the City may approve an increase in unit prices on Contractor's pricing pages consistent with the amount requested in the justification in an amount not to exceed the increase in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U) as published by the Bureau of Labor Statistics, or 5.0%, whichever is less, during the preceding one year term. If the CPI-U is a negative number, then the unit prices shall not be adjusted for that option year (the unit prices will not be decreased). A negative CPI-U shall be counted against any subsequent increases in the CPI-U when calculating the unit prices for later option years. Contractor must provide such written request and justification no less than sixty days before the date in which City may exercise the option to renew the contract, or sixty days before the anniversary date of the Contract. Justification in support of the written request must include a description of the basis for the adjustment, the proposed effective date and reasons for said date, and the amount of the adjustment requested with documentation to support the requested change (e.g. CPI-U or 5.0%, whichever is less). City's approval of this request must be in writing.

ARTICLE IV SUSPENSION AND TERMINATION

4.1 City's Right to Suspend for Convenience. City may suspend all or any portion of Contractor's performance under this Contract at its sole option and for its convenience for a reasonable period of time not to exceed six (6) months. City must first give ten (10) days' written notice to Contractor of such suspension. City will pay to Contractor a sum equivalent to the reasonable value of the goods and/or services satisfactorily provided up to the date of suspension. City may rescind the suspension prior to or at six (6) months by providing Contractor with written notice of the rescission, at which time Contractor would be required to resume performance in compliance with the terms and provisions of this Contract. Contractor will be entitled to an extension of time to complete performance under the Contract equal to the length of the suspension unless otherwise agreed to in writing by the Parties.

4.2 City's Right to Terminate for Convenience. City may, at its sole option and for its convenience, terminate all or any portion of this Contract by giving thirty (30) days' written notice of such termination to Contractor. The termination of the Contract shall be effective upon receipt of the notice by Contractor. After termination of all or any portion of the Contract, Contractor shall: (1) immediately discontinue all affected performance (unless the notice directs otherwise); and (2) complete any and all additional work necessary for the orderly filing of

documents and closing of Contractor's affected performance under the Contract. After filing of documents and completion of performance, Contractor shall deliver to City all data, drawings, specifications, reports, estimates, summaries, and such other information and materials created or received by Contractor in performing this Contract, whether completed or in process. By accepting payment for completion, filing, and delivering documents as called for in this section, Contractor discharges City of all of City's payment obligations and liabilities under this Contract with regard to the affected performance.

4.3 City's Right to Terminate for Default. Contractor's failure to satisfactorily perform any obligation required by this Contract constitutes a default. Examples of default include a determination by City that Contractor has: (1) failed to deliver goods and/or perform the services of the required quality or within the time specified; (2) failed to perform any of the obligations of this Contract; and (3) failed to make sufficient progress in performance which may jeopardize full performance.

4.3.1 If Contractor fails to satisfactorily cure a default within ten (10) calendar days of receiving written notice from City specifying the nature of the default, City may immediately cancel and/or terminate this Contract, and terminate each and every right of Contractor, and any person claiming any rights by or through Contractor under this Contract.

4.3.2 If City terminates this Contract, in whole or in part, City may procure, upon such terms and in such manner as the Purchasing Agent may deem appropriate, equivalent goods or services and Contractor shall be liable to City for any excess costs. Contractor shall also continue performance to the extent not terminated.

4.4 Termination for Bankruptcy or Assignment for the Benefit of Creditors. If Contractor files a voluntary petition in bankruptcy, is adjudicated bankrupt, or makes a general assignment for the benefit of creditors, the City may at its option and without further notice to, or demand upon Contractor, terminate this Contract, and terminate each and every right of Contractor, and any person claiming rights by and through Contractor under this Contract.

4.5 Contractor's Right to Payment Following Contract Termination.

4.5.1 Termination for Convenience. If the termination is for the convenience of City an equitable adjustment in the Contract price shall be made. No amount shall be allowed for anticipated profit on unperformed services, and no amount shall be paid for an as needed contract beyond the Contract termination date.

4.5.2 Termination for Default. If, after City gives notice of termination for failure to fulfill Contract obligations to Contractor, it is determined that Contractor had not so failed, the termination shall be deemed to have been effected for the convenience of City. In such event, adjustment in the Contract price shall be made as provided in Section 4.3.2. City's rights and remedies are in addition to any other rights and remedies provided by law or under this Contract.

4.6 Remedies Cumulative. City's remedies are cumulative and are not intended to be exclusive of any other remedies or means of redress to which City may be lawfully entitled in case of any breach or threatened breach of any provision of this Contract.

ARTICLE V ADDITIONAL CONTRACTOR OBLIGATIONS

5.1 Inspection and Acceptance. The City will inspect and accept goods provided under this Contract at the shipment destination unless specified otherwise. Inspection will be made and acceptance will be determined by the City department shown in the shipping address of the Purchase Order or other duly authorized representative of City.

5.2 Responsibility for Lost or Damaged Shipments. Contractor bears the risk of loss or damage to goods prior to the time of their receipt and acceptance by City. City has no obligation to accept damaged shipments and reserves the right to return damaged goods, at Contractor's sole expense, even if the damage was not apparent or discovered until after receipt.

5.3 Responsibility for Damages. Contractor is responsible for all damage that occurs as a result of Contractor's fault or negligence or that of its' employees, agents, or representatives in connection with the performance of this Contract. Contractor shall immediately report any such damage to people and/or property to the Contract Administrator.

5.4 Delivery. Delivery shall be made on the delivery day specified in the Contract Documents. The City, in its sole discretion, may extend the time for delivery. The City may order, in writing, the suspension, delay or interruption of delivery of goods and/or services.

5.5 Delay. Unless otherwise specified herein, time is of the essence for each and every provision of the Contract. Contractor must immediately notify City in writing if there is, or it is anticipated that there will be, a delay in performance. The written notice must explain the cause for the delay and provide a reasonable estimate of the length of the delay. City may terminate this Contract as provided herein if City, in its sole discretion, determines the delay is material.

5.5.1 If a delay in performance is caused by any unforeseen event(s) beyond the control of the parties, City may allow Contractor to a reasonable extension of time to complete performance, but Contractor will not be entitled to damages or additional compensation. Any such extension of time must be approved in writing by City. The following conditions may constitute such a delay: war; changes in law or government regulation; labor disputes; strikes; fires, floods, adverse weather or other similar condition of the elements necessitating cessation of the performance; inability to obtain materials, equipment or labor; or other specific reasons agreed to between City and Contractor. This provision does not apply to a delay caused by Contractor's acts or omissions. Contractor is not entitled to an extension of time to perform if a delay is caused by Contractor's inability to obtain materials, equipment, or labor unless City has received, in a timely manner, documentary proof satisfactory to City of Contractor's inability to obtain materials, equipment, or labor, in which case City's approval must be in writing.

5.6 Restrictions and Regulations Requiring Contract Modification. Contractor shall immediately notify City in writing of any regulations or restrictions that may or will require Contractor to alter the material, quality, workmanship, or performance of the goods and/or services to be provided. City reserves the right to accept any such alteration, including any resulting reasonable price adjustments, or to cancel the Contract at no expense to the City.

5.7 Warranties. All goods and/or services provided under the Contract must be warranted by Contractor or manufacturer for at least twelve (12) months after acceptance by City, except automotive equipment. Automotive equipment must be warranted for a minimum of 12,000 miles or 12 months, whichever occurs first, unless otherwise stated in the Contract. Contractor is responsible to City for all warranty service, parts, and labor. Contractor is required to ensure that warranty work is performed at a facility acceptable to City and that services, parts, and labor are available and provided to meet City's schedules and deadlines. Contractor may establish a warranty service contract with an agency satisfactory to City instead of performing the warranty service itself. If Contractor is not an authorized service center and causes any damage to equipment being serviced, which results in the existing warranty being voided, Contractor will be liable for all costs of repairs to the equipment, or the costs of replacing the equipment with new equipment that meets City's operational needs.

5.8 Industry Standards. Contractor shall provide goods and/or services acceptable to City in strict conformance with the Contract. Contractor shall also provide goods and/or services in accordance with the standards customarily adhered to by an experienced and competent provider of the goods and/or services called for under this Contract using the degree of care and skill ordinarily exercised by reputable providers of such goods and/or services. Where approval by City, the Mayor, or other representative of City is required, it is understood to be general approval only and does not relieve Contractor of responsibility for complying with all applicable laws, codes, policies, regulations, and good business practices.

5.9 Records Retention and Examination. Contractor shall retain, protect, and maintain in an accessible location all records and documents, including paper, electronic, and computer records, relating to this Contract for five (5) years after receipt of final payment by City under this Contract. Contractor shall make all such records and documents available for inspection, copying, or other reproduction, and auditing by authorized representatives of City, including the Purchasing Agent or designee. Contractor shall make available all requested data and records at reasonable locations within City or County of San Diego at any time during normal business hours, and as often as City deems necessary. If records are not made available within the City or County of San Diego, Contractor shall pay City's travel costs to the location where the records are maintained and shall pay for all related travel expenses. Failure to make requested records available for inspection, copying, or other reproduction, or auditing by the date requested may result in termination of the Contract. Contractor must include this provision in all subcontracts made in connection with this Contract.

5.9.1 Contractor shall maintain records of all subcontracts entered into with all firms, all project invoices received from Subcontractors and Suppliers, all purchases of materials and services from Suppliers, and all joint venture participation. Records shall show name, telephone number including area code, and business address of each Subcontractor and Supplier, and joint venture partner, and the total amount actually paid to each firm. Project relevant records, regardless of tier, may be periodically reviewed by the City.

5.10 Quality Assurance Meetings. Upon City's request, Contractor shall schedule one or more quality assurance meetings with City's Contract Administrator to discuss Contractor's performance. If requested, Contractor shall schedule the first quality assurance meeting no later than eight (8) weeks from the date of commencement of work under the Contract. At the quality assurance meeting(s), City's Contract Administrator will provide Contractor with feedback, will note any deficiencies in Contract performance, and provide Contractor with an opportunity to address and correct such deficiencies. The total number of quality assurance meetings that may be required by City will depend upon Contractor's performance.

5.11 Duty to Cooperate with Auditor. The City Auditor may, in his sole discretion, at no cost to the City, and for purposes of performing his responsibilities under Charter section 39.2, review Contractor's records to confirm contract compliance. Contractor shall make reasonable efforts to cooperate with Auditor's requests.

5.12 Safety Data Sheets. If specified by City in the solicitation or otherwise required by this Contract, Contractor must send with each shipment one (1) copy of the Safety Data Sheet (SDS) for each item shipped. Failure to comply with this procedure will be cause for immediate termination of the Contract for violation of safety procedures.

5.13 Project Personnel. Except as formally approved by the City, the key personnel identified in Contractor's bid or proposal shall be the individuals who will actually complete the work. Changes in staffing must be reported in writing and approved by the City.

5.13.1 Criminal Background Certification. Contractor certifies that all employees working on this Contract have had a criminal background check and that said employees are clear of any sexual and drug related convictions. Contractor further certifies that all employees hired by Contractor or a subcontractor shall be free from any felony convictions.

5.13.2 Photo Identification Badge. Contractor shall provide a company photo identification badge to any individual assigned by Contractor or subcontractor to perform services or deliver goods on City premises. Such badge must be worn at all times while on City premises. City reserves the right to require Contractor to pay fingerprinting fees for personnel assigned to work in sensitive areas. All employees shall turn in their photo identification badges to Contractor upon completion of services and prior to final payment of invoice.

5.14 Standards of Conduct. Contractor is responsible for maintaining standards of employee competence, conduct, courtesy, appearance, honesty, and integrity satisfactory to the City.

5.14.1 Supervision. Contractor shall provide adequate and competent supervision at all times during the Contract term. Contractor shall be readily available to meet with the City. Contractor shall provide the telephone numbers where its representative(s) can be reached.

5.14.2 City Premises. Contractor's employees and agents shall comply with all City rules and regulations while on City premises.

5.14.3 Removal of Employees. City may request Contractor immediately remove from assignment to the City any employee found unfit to perform duties at the City. Contractor shall comply with all such requests.

5.15 Licenses and Permits. Contractor shall, without additional expense to the City, be responsible for obtaining any necessary licenses, permits, certifications, accreditations, fees and approvals for complying with any federal, state, county, municipal, and other laws, codes, and regulations applicable to Contract performance. This includes, but is not limited to, any laws or regulations requiring the use of licensed contractors to perform parts of the work.

5.16 Contractor and Subcontractor Registration Requirements. Prior to the award of the Contract or Task Order, Contractor and Contractor's subcontractors and suppliers must register with the City's web-based vendor registration and bid management system. The City may not award the Contract until registration of all subcontractors and suppliers is complete. In the event this requirement is not met within the time frame specified by the City, the City reserves the right to rescind the Contract award and to make the award to the next responsive and responsible proposer of bidder.

ARTICLE VI INTELLECTUAL PROPERTY RIGHTS

6.1 Rights in Data. If, in connection with the services performed under this Contract, Contractor or its employees, agents, or subcontractors, create artwork, audio recordings, blueprints, designs, diagrams, documentation, photographs, plans, reports, software, source code, specifications, surveys, system designs, video recordings, or any other original works of authorship, whether written or readable by machine (Deliverable Materials), all rights of Contractor or its subcontractors in the Deliverable Materials, including, but not limited to publication, and registration of copyrights, and trademarks in the Deliverable Materials, are the sole property of City. Contractor, including its employees, agents, and subcontractors, may not use any Deliverable Material for purposes unrelated to Contractor's work on behalf of the City without prior written consent of City. Contractor may not publish or reproduce any Deliverable Materials, for purposes unrelated to Contractor's work on behalf of the City, without the prior written consent of the City.

6.2 Intellectual Property Rights Assignment. For no additional compensation, Contractor hereby assigns to City all of Contractor's rights, title, and interest in and to the content of the Deliverable Materials created by Contractor or its employees, agents, or subcontractors, including copyrights, in connection with the services performed under this Contract. Contractor

shall promptly execute and deliver, and shall cause its employees, agents, and subcontractors to promptly execute and deliver, upon request by the City or any of its successors or assigns at any time and without further compensation of any kind, any power of attorney, assignment, application for copyright, patent, trademark or other intellectual property right protection, or other papers or instruments which may be necessary or desirable to fully secure, perfect or otherwise protect to or for the City, its successors and assigns, all right, title and interest in and to the content of the Deliverable Materials. Contractor also shall cooperate and assist in the prosecution of any action or opposition proceeding involving such intellectual property rights and any adjudication of those rights.

6.3 Contractor Works. Contractor Works means tangible and intangible information and material that: (a) had already been conceived, invented, created, developed or acquired by Contractor prior to the effective date of this Contract; or (b) were conceived, invented, created, or developed by Contractor after the effective date of this Contract, but only to the extent such information and material do not constitute part or all of the Deliverable Materials called for in this Contract. All Contractor Works, and all modifications or derivatives of such Contractor Works, including all intellectual property rights in or pertaining to the same, shall be owned solely and exclusively by Contractor.

6.4 Subcontracting. In the event that Contractor utilizes a subcontractor(s) for any portion of the work that comprises the whole or part of the specified Deliverable Materials to the City, the agreement between Contractor and the subcontractor shall include a statement that identifies the Deliverable Materials as a “works for hire” as described in the United States Copyright Act of 1976, as amended, and that all intellectual property rights in the Deliverable Materials, whether arising in copyright, trademark, service mark or other forms of intellectual property rights, belong to and shall vest solely with the City. Further, the agreement between Contractor and its subcontractor shall require that the subcontractor, if necessary, shall grant, transfer, sell and assign, free of charge, exclusively to City, all titles, rights and interests in and to the Deliverable Materials, including all copyrights, trademarks and other intellectual property rights. City shall have the right to review any such agreement for compliance with this provision.

6.5 Intellectual Property Warranty and Indemnification. Contractor represents and warrants that any materials or deliverables, including all Deliverable Materials, provided under this Contract are either original, or not encumbered, and do not infringe upon the copyright, trademark, patent or other intellectual property rights of any third party, or are in the public domain. If Deliverable Materials provided hereunder become the subject of a claim, suit or allegation of copyright, trademark or patent infringement, City shall have the right, in its sole discretion, to require Contractor to produce, at Contractor’s own expense, new non-infringing materials, deliverables or works as a means of remedying any claim of infringement in addition to any other remedy available to the City under law or equity. Contractor further agrees to indemnify, defend, and hold harmless the City, its officers, employees and agents from and against any and all claims, actions, costs, judgments or damages, of any type, alleging or threatening that any Deliverable Materials, supplies, equipment, services or works provided under this contract infringe the copyright, trademark, patent or other intellectual property or proprietary rights of any third party (Third Party Claim of Infringement). If a Third Party Claim

of Infringement is threatened or made before Contractor receives payment under this Contract, City shall be entitled, upon written notice to Contractor, to withhold some or all of such payment.

6.6 Software Licensing. Contractor represents and warrants that the software, if any, as delivered to City, does not contain any program code, virus, worm, trap door, back door, time or clock that would erase data or programming or otherwise cause the software to become inoperable, inaccessible, or incapable of being used in accordance with its user manuals, either automatically, upon the occurrence of licensor-selected conditions or manually on command. Contractor further represents and warrants that all third party software, delivered to City or used by Contractor in the performance of the Contract, is fully licensed by the appropriate licensor.

6.7 Publication. Contractor may not publish or reproduce any Deliverable Materials, for purposes unrelated to Contractor's work on behalf of the City without prior written consent from the City.

6.8 Royalties, Licenses, and Patents. Unless otherwise specified, Contractor shall pay all royalties, license, and patent fees associated with the goods that are the subject of this solicitation. Contractor warrants that the goods, materials, supplies, and equipment to be supplied do not infringe upon any patent, trademark, or copyright, and further agrees to defend any and all suits, actions and claims for infringement that are brought against the City, and to defend, indemnify and hold harmless the City, its elected officials, officers, and employees from all liability, loss and damages, whether general, exemplary or punitive, suffered as a result of any actual or claimed infringement asserted against the City, Contractor, or those furnishing goods, materials, supplies, or equipment to Contractor under the Contract.

ARTICLE VII INDEMNIFICATION AND INSURANCE

7.1 Indemnification. To the fullest extent permitted by law, Contractor shall defend (with legal counsel reasonably acceptable to City), indemnify, protect, and hold harmless City and its elected officials, officers, employees, agents, and representatives (Indemnified Parties) from and against any and all claims, losses, costs, damages, injuries (including, without limitation, injury to or death of an employee of Contractor or its subcontractors), expense, and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, and litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, any goods provided or performance of services under this Contract by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or anyone that either of them control. Contractor's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the sole negligence or willful misconduct of the Indemnified Parties.

7.2 Insurance. Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or

in connection with the performance of the work hereunder and the results of that work by Contractor, his agents, representatives, employees or subcontractors.

Contractor shall provide, at a minimum, the following:

7.2.1 Commercial General Liability. Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

7.2.2 Commercial Automobile Liability. Insurance Services Office Form Number CA 0001 covering Code 1 (any auto) or, if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

7.2.3 Workers' Compensation. Insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

7.2.4 Professional Liability (Errors and Omissions). For consultant contracts, insurance appropriate to Consultant’s profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If Contractor maintains broader coverage and/or higher limits than the minimums shown above, City requires and shall be entitled to the broader coverage and/or the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

7.2.5 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

7.2.5.1 Additional Insured Status. The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to Contractor’s insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

7.2.5.2 Primary Coverage. For any claims related to this contract, Contractor's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

7.2.5.3 Notice of Cancellation. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to City.

7.2.5.4 Waiver of Subrogation. Contractor hereby grants to City a waiver of any right to subrogation which the Workers' Compensation insurer of said Contractor may acquire against City by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

7.2.5.5 Claims Made Policies (applicable only to professional liability). The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

7.3 Self Insured Retentions. Self-insured retentions must be declared to and approved by City. City may require Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

7.4 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VI, unless otherwise acceptable to City.

City will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Approved Surplus Lines Insurers (LASLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

7.5 Verification of Coverage. Contractor shall furnish City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive Contractor's obligation to provide them. City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

7.6 Special Risks or Circumstances. City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

7.7 Additional Insurance. Contractor may obtain additional insurance not required by this Contract.

7.8 Excess Insurance. All policies providing excess coverage to City shall follow the form of the primary policy or policies including but not limited to all endorsements.

7.9 Subcontractors. Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a format at least as broad as the CG 20 38 04 13 endorsement.

ARTICLE VIII BONDS

8.1 Payment and Performance Bond. Prior to the execution of this Contract, City may require Contractor to post a payment and performance bond (Bond). The Bond shall guarantee Contractor's faithful performance of this Contract and assure payment to contractors, subcontractors, and to persons furnishing goods and/or services under this Contract.

8.1.1 Bond Amount. The Bond shall be in a sum equal to twenty-five percent (25%) of the Contract amount, unless otherwise stated in the Specifications. City may file a claim against the Bond if Contractor fails or refuses to fulfill the terms and provisions of the Contract.

8.1.2 Bond Term. The Bond shall remain in full force and effect at least until complete performance of this Contract and payment of all claims for materials and labor, at which time it will convert to a ten percent (10%) warranty bond, which shall remain in place until the end of the warranty periods set forth in this Contract. The Bond shall be renewed annually, at least sixty (60) days in advance of its expiration, and Contractor shall provide timely proof of annual renewal to City.

8.1.3 Bond Surety. The Bond must be furnished by a company authorized by the State of California Department of Insurance to transact surety business in the State of California and which has a current A.M. Best rating of at least "A-, VIII."

8.1.4 Non-Renewal or Cancellation. The Bond must provide that City and Contractor shall be provided with sixty (60) days' advance written notice in the event of non-renewal, cancellation, or material change to its terms. In the event of non-renewal, cancellation, or material change to the Bond terms, Contractor shall provide City with evidence of the new source of surety within twenty-one (21) calendar days after the date of the notice of non-renewal, cancellation, or material change. Failure to maintain the Bond, as required herein, in full force

and effect as required under this Contract, will be a material breach of the Contract subject to termination of the Contract.

8.2 Alternate Security. City may, at its sole discretion, accept alternate security in the form of an endorsed certificate of deposit, a money order, a certified check drawn on a solvent bank, or other security acceptable to the Purchasing Agent in an amount equal to the required Bond.

ARTICLE IX CITY-MANDATED CLAUSES AND REQUIREMENTS

9.1 Contractor Certification of Compliance. By signing this Contract, Contractor certifies that Contractor is aware of, and will comply with, these City-mandated clauses throughout the duration of the Contract.

9.1.1 Drug-Free Workplace Certification. Contractor shall comply with City's Drug-Free Workplace requirements set forth in Council Policy 100-17, which is incorporated into the Contract by this reference.

9.1.2 Contractor Certification for Americans with Disabilities Act (ADA) and State Access Laws and Regulations: Contractor shall comply with all accessibility requirements under the ADA and under Title 24 of the California Code of Regulations (Title 24). When a conflict exists between the ADA and Title 24, Contractor shall comply with the most restrictive requirement (i.e., that which provides the most access). Contractor also shall comply with the City's ADA Compliance/City Contractors requirements as set forth in Council Policy 100-04, which is incorporated into this Contract by reference. Contractor warrants and certifies compliance with all federal and state access laws and regulations and further certifies that any subcontract agreement for this contract contains language which indicates the subcontractor's agreement to abide by the provisions of the City's Council Policy and any applicable access laws and regulations.

9.1.3 Non-Discrimination Requirements.

9.1.3.1 Compliance with City's Equal Opportunity Contracting Program (EOCP). Contractor shall comply with City's EOCP Requirements. Contractor shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Contractor shall provide equal opportunity in all employment practices. Prime Contractors shall ensure that their subcontractors comply with this program. Nothing in this Section shall be interpreted to hold a Prime Contractor liable for any discriminatory practice of its subcontractors.

9.1.3.2 Non-Discrimination Ordinance. Contractor shall not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of subcontractors, vendors or suppliers. Contractor shall provide equal opportunity for subcontractors to participate in subcontracting opportunities. Contractor understands and agrees that violation of this clause shall be considered a material breach of the Contract and may result

in Contract termination, debarment, or other sanctions. Contractor shall ensure that this language is included in contracts between Contractor and any subcontractors, vendors and suppliers.

9.1.3.3 Compliance Investigations. Upon City's request, Contractor agrees to provide to City, within sixty calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Contractor for each subcontract or supply contract. Contractor further agrees to fully cooperate in any investigation conducted by City pursuant to City's Nondiscrimination in Contracting Ordinance. Contractor understands and agrees that violation of this clause shall be considered a material breach of the Contract and may result in Contract termination, debarment, and other sanctions.

9.1.4 Equal Benefits Ordinance Certification. Unless an exception applies, Contractor shall comply with the Equal Benefits Ordinance (EBO) codified in the San Diego Municipal Code (SDMC). Failure to maintain equal benefits is a material breach of the Contract.

9.1.5 Contractor Standards. Contractor shall comply with Contractor Standards provisions codified in the SDMC. Contractor understands and agrees that violation of Contractor Standards may be considered a material breach of the Contract and may result in Contract termination, debarment, and other sanctions.

9.1.6 Noise Abatement. Contractor shall operate, conduct, or construct without violating the City's Noise Abatement Ordinance codified in the SDMC.

9.1.7 Storm Water Pollution Prevention Program. Contractor shall comply with the City's Storm Water Management and Discharge Control provisions codified in Division 3 of Chapter 4 of the SDMC, as may be amended, and any and all applicable Best Management Practice guidelines and pollution elimination requirements in performing or delivering services at City owned, leased, or managed property, or in performance of services and activities on behalf of City regardless of location.

Contractor shall comply with the City's Jurisdictional Urban Runoff Management Plan encompassing Citywide programs and activities designed to prevent and reduce storm water pollution within City boundaries as adopted by the City Council on January 22, 2008, via Resolution No. 303351, as may be amended.

Contractor shall comply with each City facility or work site's Storm Water Pollution Prevention Plan, as applicable, and institute all controls needed while completing the services to minimize any negative impact to the storm water collection system and environment.

9.1.8 Service Worker Retention Ordinance. If applicable, Contractor shall comply with the Service Worker Retention Ordinance (SWRO) codified in the SDMC.

9.1.9 Product Endorsement. Contractor shall comply with Council Policy 000-41 which requires that other than listing the City as a client and other limited endorsements, any advertisements, social media, promotions or other marketing referring to the City as a user of a product or service will require prior written approval of the Mayor or designee. Use of the City Seal or City logos is prohibited.

9.1.10 Business Tax Certificate. Unless the City Treasurer determines in writing that a contractor is exempt from the payment of business tax, any contractor doing business with the City of San Diego is required to obtain a Business Tax Certificate (BTC) and to provide a copy of its BTC to the City before a Contract is executed.

9.1.11 Equal Pay Ordinance. Unless an exception applies, Contractor shall comply with the Equal Pay Ordinance codified in San Diego Municipal Code sections 22.4801 through 22.4809. Contractor shall certify in writing that it will comply with the requirements of the EPO.

9.1.11.1 Contractor and Subcontract Requirement. The Equal Pay Ordinance applies to any subcontractor who performs work on behalf of a Contractor to the same extent as it would apply to that Contractor. Any Contractor subject to the Equal Pay Ordinance shall require all of its subcontractors to certify compliance with the Equal Pay Ordinance in its written subcontracts.

ARTICLE X CONFLICT OF INTEREST AND VIOLATIONS OF LAW

10.1 Conflict of Interest Laws. Contractor is subject to all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices including, but not limited to, California Government Code sections 1090, *et. seq.* and 81000, *et. seq.*, and the Ethics Ordinance, codified in the SDMC. City may determine that Contractor must complete one or more statements of economic interest disclosing relevant financial interests. Upon City's request, Contractor shall submit the necessary documents to City.

10.2 Contractor's Responsibility for Employees and Agents. Contractor is required to establish and make known to its employees and agents appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business or other relationships.

10.3 Contractor's Financial or Organizational Interests. In connection with any task, Contractor shall not recommend or specify any product, supplier, or contractor with whom Contractor has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.

10.4 Certification of Non-Collusion. Contractor certifies that: (1) Contractor's bid or proposal was not made in the interest of or on behalf of any person, firm, or corporation not identified; (2) Contractor did not directly or indirectly induce or solicit any other bidder or proposer to put in a sham bid or proposal; (3) Contractor did not directly or indirectly induce or

solicit any other person, firm or corporation to refrain from bidding; and (4) Contractor did not seek by collusion to secure any advantage over the other bidders or proposers.

10.5 Hiring City Employees. This Contract shall be unilaterally and immediately terminated by City if Contractor employs an individual who within the twelve (12) months immediately preceding such employment did in his/her capacity as a City officer or employee participate in negotiations with or otherwise have an influence on the selection of Contractor.

ARTICLE XI DISPUTE RESOLUTION

11.1 Mediation. If a dispute arises out of or relates to this Contract and cannot be settled through normal contract negotiations, Contractor and City shall use mandatory non-binding mediation before having recourse in a court of law.

11.2 Selection of Mediator. A single mediator that is acceptable to both parties shall be used to mediate the dispute. The mediator will be knowledgeable in the subject matter of this Contract, if possible.

11.3 Expenses. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by the parties, unless they agree otherwise.

11.4 Conduct of Mediation Sessions. Mediation hearings will be conducted in an informal manner and discovery will not be allowed. The discussions, statements, writings and admissions will be confidential to the proceedings (pursuant to California Evidence Code sections 1115 through 1128) and will not be used for any other purpose unless otherwise agreed by the parties in writing. The parties may agree to exchange any information they deem necessary. Both parties shall have a representative attend the mediation who is authorized to settle the dispute, though City's recommendation of settlement may be subject to the approval of the Mayor and City Council. Either party may have attorneys, witnesses or experts present.

11.5 Mediation Results. Any agreements resulting from mediation shall be memorialized in writing. The results of the mediation shall not be final or binding unless otherwise agreed to in writing by the parties. Mediators shall not be subject to any subpoena or liability, and their actions shall not be subject to discovery.

ARTICLE XII MANDATORY ASSISTANCE

12.1 Mandatory Assistance. If a third party dispute or litigation, or both, arises out of, or relates in any way to the services provided to the City under a Contract, Contractor, its agents, officers, and employees agree to assist in resolving the dispute or litigation upon City's request. Contractor's assistance includes, but is not limited to, providing professional consultations,

attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation.

12.2 Compensation for Mandatory Assistance. City will compensate Contractor for fees incurred for providing Mandatory Assistance. If, however, the fees incurred for the Mandatory Assistance are determined, through resolution of the third party dispute or litigation, or both, to be attributable in whole, or in part, to the acts or omissions of Contractor, its agents, officers, and employees, Contractor shall reimburse City for all fees paid to Contractor, its agents, officers, and employees for Mandatory Assistance.

12.3 Attorneys' Fees Related to Mandatory Assistance. In providing City with dispute or litigation assistance, Contractor or its agents, officers, and employees may incur expenses and/or costs. Contractor agrees that any attorney fees it may incur as a result of assistance provided under Section 12.2 are not reimbursable.

ARTICLE XIII MISCELLANEOUS

13.1 Headings. All headings are for convenience only and shall not affect the interpretation of this Contract.

13.2 Non-Assignment. Contractor may not assign the obligations under this Contract, whether by express assignment or by sale of the company, nor any monies due or to become due under this Contract, without City's prior written approval. Any assignment in violation of this paragraph shall constitute a default and is grounds for termination of this Contract at the City's sole discretion. In no event shall any putative assignment create a contractual relationship between City and any putative assignee.

13.3 Independent Contractors. Contractor and any subcontractors employed by Contractor are independent contractors and not agents of City. Any provisions of this Contract that may appear to give City any right to direct Contractor concerning the details of performing or providing the goods and/or services, or to exercise any control over performance of the Contract, shall mean only that Contractor shall follow the direction of City concerning the end results of the performance.

13.4 Subcontractors. All persons assigned to perform any work related to this Contract, including any subcontractors, are deemed to be employees of Contractor, and Contractor shall be directly responsible for their work.

13.5 Covenants and Conditions. All provisions of this Contract expressed as either covenants or conditions on the part of City or Contractor shall be deemed to be both covenants and conditions.

13.6 Compliance with Controlling Law. Contractor shall comply with all applicable local, state, and federal laws, regulations, and policies. Contractor's act or omission in violation of applicable local, state, and federal laws, regulations, and policies is grounds for contract

termination. In addition to all other remedies or damages allowed by law, Contractor is liable to City for all damages, including costs for substitute performance, sustained as a result of the violation. In addition, Contractor may be subject to suspension, debarment, or both.

13.7 Governing Law. The Contract shall be deemed to be made under, construed in accordance with, and governed by the laws of the State of California without regard to the conflicts or choice of law provisions thereof.

13.8 Venue. The venue for any suit concerning solicitations or the Contract, the interpretation of application of any of its terms and conditions, or any related disputes shall be in the County of San Diego, State of California.

13.9 Successors in Interest. This Contract and all rights and obligations created by this Contract shall be in force and effect whether or not any parties to the Contract have been succeeded by another entity, and all rights and obligations created by this Contract shall be vested and binding on any party's successor in interest.

13.10 No Waiver. No failure of either City or Contractor to insist upon the strict performance by the other of any covenant, term or condition of this Contract, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Contract, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any breach shall affect or alter this Contract, and each and every covenant, condition, and term hereof shall continue in full force and effect without respect to any existing or subsequent breach.

13.11 Severability. The unenforceability, invalidity, or illegality of any provision of this Contract shall not render any other provision of this Contract unenforceable, invalid, or illegal.

13.12 Drafting Ambiguities. The parties acknowledge that they have the right to be advised by legal counsel with respect to the negotiations, terms and conditions of this Contract, and the decision of whether to seek advice of legal counsel with respect to this Contract is the sole responsibility of each party. This Contract shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Contract.

13.13 Amendments. Neither this Contract nor any provision hereof may be changed, modified, amended or waived except by a written agreement executed by duly authorized representatives of City and Contractor. Any alleged oral amendments have no force or effect. The Purchasing Agent must sign all Contract amendments.

13.14 Conflicts Between Terms. If this Contract conflicts with an applicable local, state, or federal law, regulation, or court order, applicable local, state, or federal law, regulation, or court order shall control. Varying degrees of stringency among the main body of this Contract, the exhibits or attachments, and laws, regulations, or orders are not deemed conflicts, and the most stringent requirement shall control. Each party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Contract.

13.15 Survival of Obligations. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with this Contract, as well as all continuing obligations indicated in this Contract, shall survive, completion and acceptance of performance and termination, expiration or completion of the Contract.

13.16 Confidentiality of Services. All services performed by Contractor, and any sub-contractor(s) if applicable, including but not limited to all drafts, data, information, correspondence, proposals, reports of any nature, estimates compiled or composed by Contractor, are for the sole use of City, its agents, and employees. Neither the documents nor their contents shall be released by Contractor or any subcontractor to any third party without the prior written consent of City. This provision does not apply to information that: (1) was publicly known, or otherwise known to Contractor, at the time it was disclosed to Contractor by City; (2) subsequently becomes publicly known through no act or omission of Contractor; or (3) otherwise becomes known to Contractor other than through disclosure by City.

13.17 Insolvency. If Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the Contract, written notification of the bankruptcy to the Purchasing Agent and the Contract Administrator responsible for administering the Contract. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of City contract numbers and contracting offices for all City contracts against which final payment has not been made. This obligation remains in effect until final payment is made under this Contract.

13.18 No Third Party Beneficiaries. Except as may be specifically set forth in this Contract, none of the provisions of this Contract are intended to benefit any third party not specifically referenced herein. No party other than City and Contractor shall have the right to enforce any of the provisions of this Contract.

13.19 Actions of City in its Governmental Capacity. Nothing in this Contract shall be interpreted as limiting the rights and obligations of City in its governmental or regulatory capacity.





Contract: RFP 10089924-23-E Printing and Mailing Services

Final Audit Report

2023-04-14

Created:	2023-04-12
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Transaction ID:	CBJCHBCAABAAQI-iQUFs9YEhg7MGD7u7CJf26ZgLwjn

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-  Document created by Renealdo Flores (rmflores@sandiego.gov)
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Contract_ RFP 10089924-23-E Printing and Mailing Services

Final Audit Report

2023-04-17

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